

January 27th, 2016
Mr. Brent J. Fields
Secretary
Securities and Exchange Commission
100 F Street, NE
Washington, D.C. 20549-1090

Dear Mr. Fields,

Themis Trading appreciates the opportunity to comment on the proposed Investor's Exchange LLC Exchange Application (File No. 10-222) for a second time. Our first letter broadly addressed the innovative ways IEX differentiates itself from other “status quo” stock exchanges (flat fee pricing, no selling of data feeds, no selling of preferential access via colocation, and an attempt to mitigate information asymmetry).

In this comment letter we want to make three additional points.

The IEX Router

IEX's router is being termed unfair by some participants, as execution information from a potential initial fill within IEX is delayed via speedbump back to participants, while the IEX router continues to take posted liquidity at away markets without waiting for information of that fill. This design arrangement is being termed as unfair to high frequency proprietary traders. *This is true.*

On other exchanges, these same high frequency prop traders may not encounter such an “artificial” speedbump, and so they have a small window where they know some information about a change in the market (their execution on that exchange) before the rest of the world does. **This allows them to adjust their trading strategy quickly.** They can pull their own bids and offers on away markets, and maybe even race the initial investor's order to transact with the remaining posted liquidity, ahead of the order-originator. Of course, this is the story in Michael Lewis's book, Flash Boys. While this sequence of events may be “fair” for the high frequency proprietary traders, *it is not fair for the investor/participant/order-originator who is simply trying to buy what is available and advertised in the public market.*

There will never be a perfectly fair market for all market participants. However, as stated in the SEC's own list of principles, as well as former SEC Chairmen, when *the interests of long term investors conflict with those of short term traders, the interests of the former need prevail.*

Additionally, market participants who are concerned about “the unfairness of the IEX router” currently have many options. They could employ some type of time-staggered- delivery (ala THOR), or create and optimize their own novel routing, or simply use the IEX router. What's the problem? I suppose we do not understand the argument being advanced that claims that “IEX's router is unfair because we may not have good routing.”

We think high speed proprietary traders are more worried about a router that doesn't let them get out of the way as fast as they would like. However, perhaps the SEC should consider this: If a high speed proprietary trader who offers 10,000 shares on 12 different exchanges does not want to not get executed on 120,000 shares, maybe they should offer less on each exchange, or even offer on only a few exchanges. Would that be so terrible? **Would it be bad for the public stock market to have a more stable stock quote that is reflective of the true share amounts participants wish to transact? We are not convinced that this would be a bad outcome.**

Actual vs Hypothetical

A second point we wish to make is that the SEC has received a large quantity of comment letters. The vast majority of these letters are vastly supportive of approving IEX as an exchange with its current features as proposed (i.e. speedbump and router).

On one side, several of these letters have referenced substantial *actual data* that demonstrates how IEX's platform is helping long term investors. We refer specifically to the [January 14th Jefferies letter](#), as well as the [January 13th TRS of Texas letter](#). And we also encourage SEC staff to reach out to Tabb Clarity, who can demonstrate what experiencing stale midpoint fills is like for institutional long term investors, as well as fills vastly away from current data in fast moving markets. Perhaps they can show SEC Staff more real data around IEX actual institutional fills.

On the other side, the SEC has received several comment letters from high speed proprietary trading interests that document *how hypothetically* IEX might disadvantage them.

We hope that the SEC will weigh the actual experiences of long term investors documented by real data over the hypothetical arguments advanced by high speed proprietary trading firms.

Costly Trading Venue

The last point we wish to make concerns IEX's costs to users.

Some market participants have claimed that IEX is an expensive exchange. They point to the fact that IEX's flat fee take rate of 9 mils is greater than the "net rate" on other venues (difference between maker rebate and take fee). As most investors tend to be "takers" in the public markets, and not quick or savvy enough to maximize their incidence rate of being "a maker", the IEX 9 mil fee is a bargain.

A much greater cost to these types of investors is the 100mil –plus opportunity cost of not getting filled at an offer they see on their screen.

Additionally, we would like to remind the SEC that:

- IEX does not sell colocation, as do the traditional exchanges. Please have a gander at the financial statements of some of the public stock exchanges if you want to see how large a cost that is for the industry.
- IEX does not charge for data feeds. Again, have a gander at the financial statements of the public stock exchanges to see what that amounts to.

The IEX router is a useful tool for hundreds of small broker dealers who don't have the resources to co-locate, buy data feeds, servers and FPGA chips. *The IEX router is a low-cost choice these smaller firms have that allow them to level the playing field for them and the long term investors they represent.*

We encourage the SEC staff to allow for the innovation that IEX is proposing. It is beneficial for long term investors. It is consistent with the mission and principles of the SEC. It does not merit delay. It certainly does not merit a delay so that the SEC can "holistically examine Reg NMS". The public recognizes that if that were to happen, IEX's exchange approval might be delayed for years. And if that precedent were set, we fear that the SEC would be viewed as a government agency that stifles innovation, rather than encouraging it.

Respectfully submitted,

Sincerely,
Sal Arnuk and Joe Saluzzi,
Themis Trading LLC